



IDAHO DEPARTMENT OF HEALTH & WELFARE  
**DIVISION OF PUBLIC HEALTH**

## **Cottage Food Public Meeting Transcript**

H = Division of Public Health Employee

A = Meeting Attendee

H1, H2, etc = Health District Employee

April 27<sup>th</sup> – Coeur d'Alene

H: What you're saying is just leave the system alone? But if I understand you correctly, do you manage the Kootenai County Farmer's Market?

A: No I don't manage it. I'm a vendor and I've been there 21 years. I sell about 70 cases of jam in addition to my farm products and the plants. It gives the small farmer, in my case, it gives us a venue, for if we have extra strawberries and there is no market that day and we have all of these great strawberries, either putting them in the freezer for making jam later, or making something right then or whatever. It is a value-added for us; it is a small, small portion of our income. And you also get down into that category of Grandma as a fraction. They go out and get Huckleberries and she sells 4 cases of Huckleberry jam a year and everybody is waiting all year to buy her jam and they've bought it for 20 years. And we would really like to ask you not to put us out of business. I went on Washington's website. And I couldn't do that. I don't have time to write every darn recipe down. Who's got time; we are trying to produce your food. That's my take.

H: I appreciate you saying that to me. My understanding, so if we reference the Kootenai County Farmer's Market a couple of times, my understanding is that if you are a vendor at the Kootenai Farmer's Market, the management wants you to bring to them some kind of letter or statement from Panhandle Health before they will rent you a booth. Now, the letter that Panhandle Health gives or whatever you guys do with that, can look different, the letter you guys get here might be different than in Lewiston or whatever. And that's one thing that we can certainly look at to try to standardize that a little bit more. From the States perspective, we can look at that and come up with something that is a little more standardized.

A: What we require is for people selling anything that is not in the category of safe foods. Anybody who comes that wants to sell sandwiches or any kind of product that is not jams, breads, then they are required to have certification from Panhandle Health. If you are selling jam or bread,

we call them non-hazardous; I can't remember the new name. But we allow that, but only from our members, people that we know. And we have labeling, and the label has to be right; that's the standard label. We do look at that and we are very careful that all of the ingredients are on it and all of that. It works really well.

H: Thank you. Yes sir?

A: Well, I voted against 187.

H: So, 187 made it out of the committee on an 8-1 vote and Representative Redman voted against it.

A: Because it was way too complicated. And I think the rule, because when I heard the cottage food vendors there, and most of them were from the Boise area, and they have some challenges going to some of those markets. I'm not looking for a pill, but I think the rules might be a good idea so you can...you list them earlier...those that can be, and I think just a list like that, so it covers that area.

H: That seems to be what I am hearing from the other meetings too. That kind of a combination of, leave it alone, but if you do anything just include a definition in the food code of what these kinds of food are. One thing that I ask for your patience on is if we do that, is to understand that, like I said, that list is not exhaustive, and is not meant to cover every single food item. There are some different formulations where we are going to have to look at it and we might make a determination, well, I might not ask to see your full recipe but I might ask about your processing. And we might say, 'well, based on what you are telling us, we might say, this item over here is still a TCS food and it's going to require licensure and inspection. To give an example, someone on Friday night sent me an email and wanted to know about candied bacon. This doesn't sound appetizing to me, but other people have told me throughout the day 'oh, it's great you ought to try it!' So what this person wants to do is take raw bacon, cook it in maple syrup and some other spices and stuff and it becomes a candied product. Because she is dealing with a raw meat item we would have to say that it is a TCS food.

A: Yes, of course she would.

H: That's just one example. She is marketing it as candy though. And we can see that it is candy, but the process that you are going about here is not quite what we are going to think of as candy.

A: Well, I think that kind of fact of what's allowable that's not...

H: I just have to ask folks to understand that I am never going to be able to have a list of every single food that is allowable, because every time someone changes a recipe...

A: Well you can go anywhere and see that anything with meat in it is not allowable food. That's common. But some people want to skirt around the issue.

H: They do, sure. So thank you for your comments. Sir, you didn't get to hear the whole presentation.

A: That's work...

H: I know it's an inconvenient time. Basically where we are is, I talked a little about the cottage food law in Idaho, and I admit that cottage foods are not currently defined in statute or code. We currently don't regulate a lot of what people consider to be cottage foods; the breads, the cakes, the cookies and things like that. Our current practice is that we don't regulate that now if it is sold directly to a consumer. There was some legislation presented in Boise that would have changed that significantly. And I testified against that legislation and that it kind of ended up here, so where do we go, what do we do? Do we maintain our current practice, do we write rules about it? So I'm having these meetings to talk with you guys, the stakeholders, to hear from you. Incidentally this is the first day of meetings that I have been having. I started up here in the Panhandle. I will be having meetings throughout several areas of the state over the next three weeks. My intention is to hear from you guys about what do we do, from the State's perspective, to fix the issue and make it more understandable about what we are talking about?

A: If you don't mind my interest, I have bees, I have honey. I've seen where other states have done some things and some have excluded honey. Any thought process as to where we are?

H: Currently, if you are selling directly to a consumer, we don't regulate it. If we maintain our current practices, that's still going to be our program.

A: Okay, but it doesn't sound like we will be maintaining our current practices.

H: I don't know what we are going to do. I want to hear from you guys. If the prevailing thought throughout the state is to maintain our current practices, then that is what we will do. Okay, again, I testified in opposition to House Bill 187 with no changes and I am here to find out from the stakeholders, 'is there a problem, and if there is, how do we fix it?'

A: After seeing this in the paper then doing a little bit of research, Oregon excludes honey from any kind of regulation. Florida requires a label be put on the container or something of that nature. I think it is time that we are looking at where we are trying to increase bees and not trying to keep them out of the industry and they need to be exempt of the cost.

H: I appreciate hearing that.

A: I'm just trying to get started now and see if the rules to the game are changing and if I want to get going. I can abide by any rule, as long as it's not too costly.

A: The rules shouldn't have a fee with those, basically.

H: If we go with the second one where I just put a definition in the food code, then no, there is not going to be a fee with it.

A: I think that sounds reasonable. If someone is selling \$20k of jam a year, they should be doing it in commercial kitchen because they are not really a cottage person anyhow, really, in my opinion anyway. Maybe in Boise they are. Maybe they all have that much customers.

H: I don't know.

A: But I thank you for your part that you want to keep it simple. That would be really nice and inexpensive.

A: Well, my position is to maintain the status quo for this. I understand, you know, your reasoning and some of the others behind these rules, and you will be clarifying some of that. And that it is a slippery slope because like you said, if you can only define so much and inherently when you define something and it is codified, it is interpreted as intuitive and that can lead to a lot of confusion. Leading to more laws, more rules and more regulations and I think it is a slippery slope. So like I said, if you can't define something it is you should just leave it alone how it is.

H: So, let me just ask you then, if you were a cottage food producer and you weren't sure whether a food was allowed by regulation or whether it wasn't, what kind of information would help you make that determination?

A: Well, if it included definition of your time control and your temperature control, if everything is out of that then it's permissible. Then when you have everything out of that is permissible. Where if you have this is permissible and this is permissible, then inherently anything not listed is not permissible.

H: You're right. One thing we talked about with the health districts, is can we create some kind of web interface where somebody could go online and look at, I want to make jam and they push an arrow and it says they are good to go. But there is also the caveat if you are not certain contact your Health District to verify. I don't know how that would work. It is just a conversation we've been having and nothing has been decided about it.

A: And then all these things have more cost to the end-user and, more costs mean more barriers.

A: Was it the cottage food people who came to you wanting this?

H: It is. The organization told me that they represent cottage food vendors throughout the state.

A: Huh? I never heard of any organization.

A: Did they say what the real reason was?

H: No.

A: A lot of these people are organized by industry groups. They tend to be protectionist groups; protecting a segment of the industry by creating barriers of entry to others. That's what we look for when we look at these things.

- H2: Maybe the compromise is to use the definition only to define where the transaction takes place. And that's been the other issue – direct to consumer allowed to be done in a home kitchen may be done in a roadside stand and stay away from defining the product. And let that still be part of what is defined under the current regulations as TCS or potentially hazardous and stay away from that. I think there were two issues that we heard. One was that there wasn't anything that defined cottage food, so people felt uncomfortable. Our approach from the Health District is that if it is not prohibited then it is allowed. And I think that as long as we stay there, the piece that made some uncomfortable was the cottage food or that kitchen industry. Low-risk, we've used that term locally, wasn't defined, so then people got uncomfortable going and doing it. So I think that piece could be solved by nothing more than a definition of where you are allowed to sell, not what.
- H: That might be another way to define low-risk. You're right, usually the Health Districts use that term. We could further define what low-risk means.
- H2: We use that term for coffee kiosks that don't sell food; that are just doing coffee. That is a low-risk establishment. We do the same kind of evaluation and issue that authorization to do business. It's not regulated, there is no fee associated with it, and no application requirement. This is the same we do for the farmers markets for those who are not selling the TCS or pH foods.
- H: So, if, I want to stress that word "IF" we decide to do something with the rules, I can accept public comments until July 24<sup>th</sup>. I have to work backwards in my calendar. If any rule changes get made, and this includes the Idaho Food Code, ultimately that has to be approved by the legislature. So I would be presenting to the 2016 legislative session. In order to meet that January deadline, I have to have our Board of Health and Welfare approve it in November. In order to meet that November deadline, I have to allow timeframes for public hearings on the final proposal and solicit public comments on that, so I have to back up from that deadline and keep having to back up deadlines. What it all means is that I can accept comments until July 24<sup>th</sup>.

I do ask for your consideration if you have a comment to make, is to consider making it as early as you can. I will accept them until July 24<sup>th</sup> but please feel free to try to get them early if you can. You can submit comments to me any way. I've got two email addresses up there. That first one is my email address that goes right to my desk. The second one – [foodprotection@dhw.idaho.gov](mailto:foodprotection@dhw.idaho.gov) is an email inbox that we try to monitor daily. Sometimes we can't get to it daily, it is kind of a general email box that we will monitor though and you are welcome to submit comments there.

We've got a couple of phone numbers up there. Barb's number is 5938, it goes right to her desk and mine is 5936, it goes right to my desk. You are absolutely welcome to call us. If you want to mail us something, there is the address. 450 W State Street, 4<sup>th</sup> Floor, Boise ID, 83720

I'm not from Idaho originally. I grew up in Northwest Colorado. I've lived in Idaho now for about 20 years. One of the things that I really love about Idaho is it is generally very easy to be involved in the political process. I appreciate Representative Redman for being here today. He and his colleagues at the legislature want to hear from you too. They want to know what your thoughts are about this stuff. So I would encourage you to contact your elected officials as well, and speak with them about this or any other issue. I've got cards up here too. I'd be happy to give you my card.

Finally, I hope that if you ever have any questions about food safety, I hope that you feel comfortable giving me a call and ask me about it. Frequently I will say 'well, you probably want to talk to Panhandle Health'. I am not trying to push you off, but I am at the disadvantage of sitting in my office in Boise. I don't know the local factors that are going on up here in Kootenai County, or any other counties up here. Folks up here at Panhandle Health are aware of those local issues. So sometimes I will tell someone, 'you need to contact your local Health Districts, because sometimes they have a better idea of what's going on locally than I do and they can probably address your question a little more clearly than I can.'

I welcome any comments. This young lady has a whole letter she would like to give to me already.

A: Would you rather I email it to you?

H: No, I'll take it right now. This is fine! Thank you for doing that.

A: It was the thought for me, when we read that in the paper yesterday, it was great. We went and had our setup for our market and we talked about it as our whole market, and I sort of got chosen in lieu of having to go pay my booth charges tomorrow, to represent them. We are a small group you know, it is a small business. Anyway, the point is, is that we are all scared to death that you are going to try to slap a big fat fee on us, or make it so hard that we can't even do it. And it would be so sad. It would really be sad.

H: I hope you bring back to your group some of the message that I've shared with you.

A: I will. I will send out an email tonight and say 'hey, it sounds pretty good' because you are real people.

H: I'm here to find out, is there a problem, and if there is, how do we fix it? So that is what I am here to do.

H2: Patrick? Just to clarify, recognize neither the Health Districts nor Health and Welfare were the advocates promoting the Bill. So it was not an effort on the part of regulators to put you out of business.

A: I found that out when I did a little research.

- H: We were being asked to respond but we were not the proponents for all of this.
- A: I imagine you'll let us know but as the farmers markets we would need to know some things if there's new changes in the Food Code.
- H: Thank you, you just reminded me. So after I have a proposed final draft, of the updated Idaho Food Code, I will be having public hearings on that as well. So I anticipate that I will be back up here, probably around the end of August, I don't have a concrete date. I can tell you that my wedding anniversary is August 15<sup>th</sup> so it won't be that week.
- A: We can send emails to the different farmers markets and get some feedback, if people can send you emails – you'll probably get some.
- H: I may not reply right away, but I want to hear from the stakeholders in this.
- A: There is an Idaho Farmer's Market Association too. I don't know too much about them. I'm not the rep. for that. They might want to know what is going on and have a say. It sounds like there are some challenges in Boise, and all of that.
- A: I appreciate how you presented it to in this meeting. You weren't trying to increase the government program and all of that. I really appreciate that.